

BILL NO. S-74-07-57

SPECIAL ORDINANCE NO. S-128-74

AN ORDINANCE approving an agreement with
Little Turtle Territories, Inc. for construction
of a sanitary sewer extension

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA:

SECTION 1. A certain agreement dated July 17, 1974, between the
City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public
Works and LITTLE TURTLE TERRITORIES, INC., for the construction of a sanitary
sewer described as follows:

Main No. 1

Commencing at an existing manhole in the 27th St. Joe Interceptor
Sanitary Sewer; thence, North along and outside the East right of
way of Choctaw Pass 855[±] feet terminating at a proposed cleanout.

Main No. 2

Commencing at proposed Manhole No. 1 (located in Main No. 1);
thence, Westerly along and outside the South right of way line of
Fallen Timbers Trail 400[±] feet to a proposed manhole.

Lateral No. 3

Commencing at proposed Manhole No. 1 (located in Main No. 1);
thence, East 520[±] feet along and outside the South right of way line
of Fallen Timbers Trail terminating at a proposed cleanout.

Lateral No. 4

Commencing at proposed Manhole No. 3 (located in Main No. 1);
thence, West 275[±] feet along and outside the South right of way
line of Choctaw Court terminating at a proposed manhole.

at no cost to the City, all as more particularly set forth in said contract which is
on file in the Office of the Board of Public Works, and is by reference incorporated
herein and made a part hereof, is hereby in all things ratified, confirmed and
approved.

SECTION 2. This Ordinance shall be in full force and effect from and
after its passage and approval by the Mayor.

APPROVED AS TO FORM
AND LEGALITY

W. S. G.
CITY ATTORNEY

W. J. Mox Jr.
Councilman

Read the first time in full and on motion by Moses, seconded by D. Schmidt and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: 7-23-74

Charles M. Waltersman
CITY CLERK

Read the third time in full and on motion by Moses, seconded by A. Schwartz Hinga and duly adopted, placed on its passage. Passed (~~lost~~) by the following vote:

	AYES <u>6</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT <u>3</u> to-wit:
BURNS	<input checked="" type="checkbox"/>	_____	_____	_____
HINGA	<input checked="" type="checkbox"/>	_____	_____	_____
KRAUS	<input checked="" type="checkbox"/>	_____	_____	_____
MOSES	<input checked="" type="checkbox"/>	_____	_____	_____
NUCKOLS	_____	_____	_____	<u>A</u>
SCHMIDT, D.	<input checked="" type="checkbox"/>	_____	_____	_____
SCHMIDT, V.	<input checked="" type="checkbox"/>	_____	_____	_____
STIER	_____	_____	_____	<u>A</u>
TALARICO	_____	_____	_____	_____

DATE: August 13, 1974

Charles M. Waltersman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. S-129-74 on the 13th day of August, 1974.

Charles M. Waltersman
CITY CLERK

ATTEST: (SEAL)

Eugene Kraus
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of August, 1974, at the hour of 11:00 o'clock A.M., E.S.T.

Charles M. Waltersman
CITY CLERK

Approved and signed by me this 14th day of August, 1974, at the hour of 4:00 o'clock P. M., E.S.T.

James P. Loring
MAYOR

Bill No. S-74-07-57

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on PUBLIC WORKS to whom was referred an Ordinance
approving an agreement with Little Turtle Territories, Inc. for construction
of a sanitary sewer extension

have had said Ordinance under consideration and beg leave to report back to the Common
Council, that said Ordinance DO PASS.

WINFIELD C. MOSES, JR. - CHAIRMAN

JOHN NUCKOLS - VICE CHAIRMAN

JAMES S. STIER

WILLIAM T. HINGA

VIVIAN G. SCHMIDT

Winfield C. Moses Jr
John Nuckols
James S. Stier
William T. Hinga
Vivian G. Schmidt

CONCURRED IN

DATE 8-13-74 CHARLES W. WESTERMAN, CITY CLERK

CONCURRED IN

THOMAS, CITY CLERK

A G R E E M E N T
F O R
S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 17th day of *July*, 1974, by and between LITTLE TURTLE TERRITORIES, INC., hereinafter referred to as "Developer", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City",

WITNESSETH:

WHEREAS, the Developer desires to construct a sanitary sewer described as follows:

Main No. 1

Commencing at an existing manhole in the 27" St. Joe Interceptor Sanitary Sewer; thence, North along and outside the East right of way of Choctaw Pass 855 ± feet terminating at a proposed cleanout.

Main No. 2

Commencing at proposed Manhole No. 1 (located in Main No. 1); thence, Westerly along and outside the South right of way line of Fallen Timbers Trail 400 ± feet to a proposed manhole.

Lateral No. 3

Commencing at proposed Manhole No. 1 (located in Main No. 1); thence, East 520 ± feet along and outside the South right of way line of Fallen Timbers Trail terminating at a proposed cleanout.

Lateral No. 4

- : Commencing at proposed Manhole No. 3 (located in Main No. 1); thence, West 275 ± feet along and outside the South right of way line of Choctaw Court terminating at a proposed manhole.

in accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the office of the Chief Water Pollution Control Engineer of the Water Pollution Control Utilities of the City, and known as sanitary sewers to serve Fallen Timbers - Section "A", which plans, specifications, profiles are by reference incorporated herein and made a part hereof, which sewer will serve only the land in which the Developer has an interest.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City under private contract after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be non-compliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall

become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by City.

2. COST OF CONSTRUCTION

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including City engineering and inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said sewer when accepted by the City will serve the following described real estate:

A part of the Northwest Quarter of Section 1, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the Northwest Quarter of Section 1, Township 31 North, Range 12 East, Allen County, Indiana; thence, North 00 degrees 35 minutes 30 seconds West along the West line of said Section 1 a distance of 710.0 feet to the Northwest corner of Lot No. 9 of Feichters Subdivision, a subdivision in the aforementioned section, township and range; thence, North 89 degrees 51 minutes 00 seconds East (North 89 degrees 56 minutes East plat) along the North line of said subdivision a distance of 736.65 feet to the true point of beginning; thence, North 1 degree 19 minutes 29 seconds West a distance of 207.19 feet; thence, South 89 degrees 19 minutes 30 seconds West 92.97 feet; thence, North 3 degrees 19 minutes 10 seconds West a distance of 240.94 feet; thence, North 69 degrees 59 minutes 52 seconds West a distance of 120.0 feet; thence, North 39 degrees 29 minutes 35 seconds West a distance of 130.0 feet; thence, North 00 degrees 29 minutes 00 seconds West a distance of 154.0 feet; thence, North 12 degrees 2 minutes 00 seconds West a distance of 204.5 feet to a point on the North line of the property conveyed to Little Turtle Territories, Inc., from United Methodist District Program Counsel Fort Wayne, Inc., by warranty deed dated March 1, 1974; thence, along the boundary of said property by the following described courses; North 89 degrees 56 minutes 30 seconds East a distance of 1,597.11 feet; South 4 degrees 40 minutes 40 seconds East a distance of 75.23 feet; South 89 degrees 56 minutes 30 seconds West a distance of 783.42 feet; South 1 degree 54 minutes 12 seconds East a distance of 339. feet; North 89 degrees 55 minutes 12 seconds East a distance of 450 feet; South 4 degrees 40 minutes 40 seconds East a distance of 258.0 feet; thence, departing from the aforementioned boundary South 89 degrees 48 minutes 2 seconds East a distance of 153.65 feet; thence, South 4 degrees 40 minutes 40 seconds East a distance of 271.04 feet to a point on the North line of Feichters Subdivision; thence, North 89 degrees 44 minutes 33 seconds West along the North line of Feichters Subdivision a distance of 846.99 feet to the Northeast corner of Lot No. 5 of Feichters Subdivision as defined by a rail post in concrete; thence, continuing along said North line South 89 degrees 51 minutes 00 seconds West a distance of 280.0 feet to the true point of beginning containing 22.21 acres of land more or less and subject to right of way easement for U.S. Highway 327;

Legal description of Fallen Timbers, Section A, a subdivision in the Northwest quarter of Section 1, Township 31 North, Range 12 East, Allen County, Indiana.

A part of the Northwest quarter of Section 1, Township 31 North, Range 12 East, Allen County, Indiana more particularly described as follows:

Commencing at the Southwest corner of the Northwest quarter of Section 1, Township 31 North, Range 12 East, Allen County, Indiana; thence, 00 degrees 35 minutes 30 seconds West along the West line of said Section 1 a distance of 710.0 feet to the Northwest corner of Lot No. 9 of Feichters Subdivision, a subdivision in the aforementioned section, township and range; thence, North 89 degrees 51 minutes 00 seconds East (North 89 degrees 56 minutes East

plat) along the North line of said subdivision a distance of 736.65 feet to the true point of beginning; thence, North 1 degree 19 minutes 29 seconds West a distance of 207.19 feet; thence, South 86 degrees 19 minutes 30 seconds West 92.97 feet; thence, North 3 degrees 19 minutes 10 seconds West a distance of 120.94 feet; thence, North 69 degrees 59 minutes 52 seconds West a distance of 120.0 feet; thence, North 39 degrees 29 minutes 35 seconds West a distance of 130.0 feet; thence, North 00 degrees 29 minutes 00 seconds West a distance of 154.0 feet; thence, North 12 degrees 2 minutes 00 seconds West a distance of 204.5 feet to a point on the North line of the property conveyed to Little Turtle Territories, Inc., from United Methodist District Program Counsel Fort Wayne, Inc., by warranty deed dated March 1, 1974; thence, along the boundary of said property by the following described courses; North 89 degrees 56 minutes 30 seconds East a distance of 1,597.11 feet South 4 degrees 40 minutes 40 seconds East a distance of 75.23 feet South 89 degrees 56 minutes 30 seconds West a distance of 783.42 feet South 1 degree 54 minutes 12 seconds East a distance of 339.0 feet North 89 degrees 55 minutes 12 seconds East a distance of 450 feet South 4 degrees 40 minutes 40 seconds East a distance of 258.0 feet; thence, departing from the aforementioned boundary South 89 degrees 48 minutes 2 seconds East a distance of 153.65 feet; thence, South 4 degrees 40 minutes 40 seconds East a distance of 271.04 feet to a point on the North line of Feichters Subdivision; thence, North 89 degrees 44 minutes 33 seconds West along the North line of Feichters Subdivision a distance of 846.99 feet to the Northeast corner of Lot No. 5 of Feichters Subdivision as defined by a rail post in concrete; thence, continuing along said North line South 89 degrees 51 minutes 00 seconds West a distance of 280.0 feet to the true point of beginning containing 22.21 acres of land more or less subject to right of way easement for U.S. Highway 327.

I, Robert C. Turnbull, hereby certify that I am a Land Surveyor, licensed in compliance with the laws of the State Of Indiana, and that this Plat correctly represents a survey completed by me April 8, 1974; that all markers shown thereon actually exist and that their location, size, type and material are accurately shown. Said lots are numbered 1 through 19, both inclusive.

Therefore, the amount of assessable area to developer for the described real estate contains 22.21 acres.

As the Developer will pay for the cost of construction for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connections to City sewer mains and treatment of sewage therefrom.

An area connection charge of \$485.00 per acre and a local charge of \$6.00 per lineal foot must be paid to City before the time of construction of said sanitary sewer. This area connection and local charge, as set forth above, represents the oversizing cost expended by City for sewer lines pertaining to the St. Joe Sanitary Interceptor, Resolution Nos. 215-70, 216-70, 217-70 and 218-70 adopted by the Board of Public Works on January 7, 1970; Resolution No. 219-70 adopted by the Board of Public Works on August 31, 1970; and Resolution Nos. 266-72, 267-72, 271-72, 272-72, 273-72, 275-72, 276-72 and 277-72 adopted by the Board of Public Works on May 22, 1972.

4. BOND

This contract is subject to Developer furnishing a satisfactory Guaranty Bond

for 25% of the value of the sewer, which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

5. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

6. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this agreement the day and year first above written.

LITTLE TURTLE TERRITORIES, INC.

BY: 

Robert E. Henninger

CITY OF FORT WAYNE, INDIANA

BY: _____

Ivan A. Lebamoff, Mayor

BOARD OF PUBLIC WORKS

BY: 

Jerry D. Boswell, Chairman

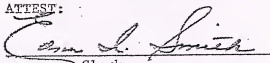
BY: 

Ronald L. Bonar, Member

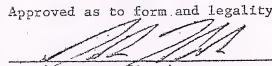
BY: _____

William G. Williams, Member

ATTEST:


Clerk

Approved as to form and legality:


Associate City Attorney

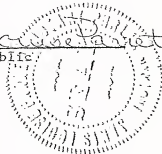
This Instrument prepared by Philip R. Boller, P.E.

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert E. Henninger of Little Turtle Territories, Inc., who acknowledged the execution of the foregoing agreement for sewer extension, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this 11th day of July, 1974.

Janis B. H. H. H.
Notary Public



My Commission Expires:

June 25, 1977

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ivan A. Lebamoff, Mayor; Jerry D. Boswell, Chairman of the Board of Public Works; Ronald L. Bonar and William G. Williams, Members of the Board of Public Works; and Edna I. Smith, Clerk, who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this _____ day of _____, 1974.

Notary Public

My Commission Expires: _____

DIGEST SHEET

8-74-07-57

TITLE OF ORDINANCE: Agreement for Sewer Extension with Little Turtle TerritoriesDEPARTMENT REQUESTING ORDINANCE: Board of Public WorksSYNOPSIS OF ORDINANCE: Agreement with Little Turtle Territories, Inc. covering construction of a sanitary sewer extension to serve Fallen Timbers Addition, Section "A". No City money is involved in construction of this sewer.EFFECT OF PASSAGE: Sewer service extended with future revenue to the City.EFFECT OF NON-PASSAGE: Failure to serve prospective customers.

MONEY INVOLVED (Direct Costs, Expenditures, Savings): _____

No cost to City.

ASSIGNED TO COMMITTEE (J.N.):

Board of Works